

CHAPTER 2.

DEVELOPMENT, DIVISION AND USE; PERMITS REQUIRED FOR DEVELOPMENT, DIVISION AND USE; CERTIFICATES OF COMPLIANCE AND OCCUPANCY; PLATTING REQUIREMENTS, PENALTIES AND ENFORCEMENT

200. POLICIES FOR THE DEVELOPMENT, DIVISION AND USE OF LAND

The City Council desires to control the development, division, and use of land to promote orderly growth while maintaining the character and protecting the health, safety and general welfare of the community. The City Council also desires to prevent creation or consolidation of lots inconsistent with the intent of this Code through development or subdivision.

Tex.Loc.Gov't Code § 212.

201. TYPES OF DEVELOPMENT AND DIVISION; SUBDIVISIONS; DEVELOPMENTS PERMITS AND PLATS REQUIRED IN CITY AND ITS EXTRATERRITORIAL JURISDICTION (ETJ); CERTIFICATES OF OCCUPANCY

201.1 Development

Development means the new construction or the enlargement of any exterior dimension of any building, structure or improvement.

Tex.Loc.Gov't Code § 212.043.

201.2 Subdivision

A. Subdivision means:

- (1) the division of a tract of land into two or more parts by deed, contract for deed, executory contract to convey, or by any other method including lease;
- (2) the laying out of suburban, building, or other lots;
- (3) the laying out of streets, alleys, squares, parks, or other parts of a tract of land for public use; or
- (4) the laying out of streets, alleys, squares, parks or other parts of a tract of land for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

Tex.Loc.Gov't Code § 212.004.

- B. The following shall not be considered a subdivision and shall be exempt from the requirements of this Code related to subdivisions:
- (1) Leases that do not involve the division of land, such as:
 - (a) agricultural leases, fishing leases, grazing leases, and hunting leases;
 - (b) leases that pertain to existing identified commercial or residential units; and
 - (c) sign leases;
 - (2) Easements that do not involve the division of land, such as:
 - (a) easements for the installation of septic tanks and septic drain fields on no more than two lots; and
 - (b) easements for the installation non-municipal utility service on no more than two lots.
 - (3) A division of land into parts greater than five acres, where each part fronts on a public street or roadway, no public improvement is being dedicated and no development is involved.

See Tex.Loc.Gov't Code § 212.004 (a) (last sentence) and subchapter B.

201.3 Development permit required for development, division or subdivision of land

- (1) The owner or developer of a tract of land shall, before development or subdivision of land in the City or its extraterritorial jurisdiction, obtain a development permit from the Planning Officer.
- (2) Any owner, authorized agent, contractor, developer or occupant who wants to develop land in the city or its extraterritorial jurisdiction shall first make application to the Planning Officer for a development permit.
- (3) Any owner, authorized agent, contractor, developer or occupant who wants to subdivide land in the City or its extraterritorial jurisdiction shall first make application to the Planning Officer for a development permit.
- (4) Any owner, authorized agent, contractor, developer or occupant shall obtain a development permit from the Planning Officer for any development, including building construction, construction of improvements related to access, drainage, reclamation, sewerage or water service to land, sign placement, in the City or its extraterritorial jurisdiction.

See also, Chapter 12 - Definitions (developer, planning officer)

202. CERTIFICATES OF COMPLIANCE FOR UTILITY SERVICE

- (1) Upon approval by the Commission or the Planning Officer of a development permit and plats, if any are required, the Planning Officer shall issue to the person applying for a development permit a Certificate of Compliance for Utility Service and Setbacks saying that the permit and plat have been reviewed and approved by the appropriate municipal authority. Any person desiring to place a mobile home or manufactured home on a lot within the City must first obtain a Certificate of Compliance for Utility Service and Setbacks from the Planning Officer before placing or having placed a mobile home or manufactured home on said lot. A person violates this Code and commits an offense if he/she places or allows to be placed any mobile home or manufactured home on any lot within the City without first obtaining a Certificate of Compliance for Utility Service and Setbacks from the City.
- (2) The City Utility Officer Supervisor, or any public utility that provides water, sewer, electricity, gas or other utility service, a water supply or service corporation, the County, or any special district that provides such service, shall not serve or connect any land, in the City or its extraterritorial jurisdiction with such services unless presented with a Certificate of Compliance for Utility Service and Setbacks applicable to the land under this section.

Tex.Loc.Gov't Code § 212.0115.

203. APPLICATION FOR DEVELOPMENT PERMIT, CONDITIONAL USE OR NON-CONFORMING USE; FORM OF APPLICATION

- (1) The developer shall submit an application on forms provided by the Planning Officer for issuance of a development permit. Where the developer requests hardship relief, the developer shall also present a written request according to Section 104 for a variance. The developer shall submit with each application the fee payment according to the duly adopted "Schedule of Fees" to cover the costs of processing the application.

See Appendix.

- (2) Each application shall be accompanied by five (5) copies of a development site plan/plat as described in Section 203.1 of this code; provided, however, that a person applying for a home occupation permit may omit the development site plan.

203.1 Development plans or plats

The developer shall submit a development site plan, fulfilling the application requirements

for obtaining a development permit under this Code. The developer shall also provide a copy of any instrument that contains a restriction on the use of, or construction of, the lot, with a copy of any amendment, judgment or other document affecting the use of the property.

The site plan shall provide:

- (1) the date, scale, north arrow, development district, title, name of owner, and name of person preparing the site plan;
- (2) the location and dimensions of boundary lines, easements, and required yards and setbacks of all existing and proposed buildings and land improvements;
- (3) the location, height, and intended use of existing and proposed buildings on the site, and the approximate location of proposed buildings and land improvements;
- (4) the location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, all utilities, fencing and screening, and lighting;
- (5) the center line of existing water courses, drainage features and location and size of existing and proposed streets and alleys, and the 25-year and 100-year floodplain as outlined in Chapter 10;
- (6) the number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements;
- (7) the approximate location and size of proposed signs, if known;
- (8) the location and size of the existing and proposed landscaped areas; and
- (9) a copy of any instruments which contain a restriction on the use of, or construction of, the lot, with a copy of any amendment, judgment or other document affecting the use of the property.

204. CERTIFICATE OF COMPLIANCE FOR ZONING INSIDE CITY

- (1) The Building Official shall not issue any building or development permit for the erection, alteration, moving or repair of any building or structure or any other permit authorized by the Code until the Planning Officer issues a Certificate of Compliance for Zoning that indicates that the plans for the building or development permit comply with the Official Zoning Map. The City shall maintain a record of all Certificates of Compliance for Zoning for public inspection. The City shall keep such records at least five (5) years.
- (2) An owner, authorized agent, contractor, developer or occupant who wants to

occupy a new building or change the occupancy, nature or use of a building, or part of a building, shall first make application to the Planning Officer for a Certificate of Compliance for Zoning.

See Southern Standard Building Code Section 103.9; this certificate is in addition to and different than the Certificate of Occupancy issued by the Building Official and the Certificate of Compliance for Utility Service issued by the Planning Officer (see Section 202 above).

- (3) An owner, authorized agent, contractor, developer or occupant who wants to change the use of land or use land inconsistent with the district regulations regarding use of the land established by the City Council shall first apply to the Planning Officer for a Certificate of Compliance for Zoning.

205. DRAINAGE WORK; EXCAVATION AND RECLAMATION

205.1 Permit required

The developer or owner of property shall obtain a development permit from the City before depositing or removing any material within a watercourse; excavating within a watercourse; constructing, altering, or removing any structure within, upon or across a watercourse; planting or removing any vegetation within a watercourse; or altering any embankment within a watercourse.

205.2 Standards

The developer shall meet all standards relating to construction and drainage contained in Chapters 7 and 10 and Section 403.1 of this Code, and the provisions of the Standard Excavation and Grading Code in obtaining permission to reclaim or improve watercourses.

205.3 Permit procedures for flood hazard zone areas

- (1) The developer shall apply to the City Engineer for a development permit on forms furnished by the City Engineer. The form may include, but not be limited to, a site plan as described in Section 203.1 showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the developer shall show following information:
 - (a) elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;

- (c) a certificate from an engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 403.1 (3) (b);
 - (d) description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development;
 - (e) maintain a record of all such information according to Section 403.1 (8) (a).
- (2) Approval or denial of a development permit by the City shall be based on all of the provisions of Section 403.1 (1) and emphasizing the following relevant factors:
- (a) the danger to life and property due to flooding or erosion damage;
 - (b) the susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
 - (c) the danger that materials may be swept onto other lands to the injury of others;
 - (d) the compatibility of the proposed use with existing and anticipated development;
 - (e) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (f) the costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (g) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - (h) the necessity to the facility of a waterfront location, where applicable;
 - (i) the availability of alternate locations, not subject to flooding or erosion damage, for the proposed use; and
 - (j) the relationship of the proposed use to the comprehensive plan for that area.

206. SIGN PLACEMENT AND ERECTION

A sign is any device including words, numerals, figures, designs, pictures or trademarks painted upon or otherwise affixed to a building, wall, board, or any structure, to inform or

attract attention.

206.1 Permit required

- (1) The developer or owner of property shall obtain a development permit from the City before erecting, constructing, reconstructing or altering a sign in the City or its extraterritorial jurisdiction. The developer and owner shall erect and maintain any sign listed hereunder in a safe condition in conformity with the standards in Chapter 11 of this Code and the Building Code. If, within any twelve (12) month period, a developer or owner makes alterations or repairs costing over fifty (50) percent of the then physical value of the sign structure to an existing sign structure, then the developer or owner shall make that sign conform to the requirements of this Code except Section 1106 (off-premise signs, location).
- (2) A person commits an offense if the person constructs, reconstructs or alters a sign in the City without a City development permit.

See generally Tex.Loc.Gov't Code ch.216.

206.2 Application procedures

- (1) The developer shall submit an application on forms provided by the Building Official for a development permit to place and erect a sign (see Section 203).
- (2) The developer shall include with the development permit applications for new ground signs which, when erected or constructed, exceed ten (10) feet above ground level, or for new roof signs which, when erected, exceed ten (10) feet above ground level a drawing of the sign structure and the sign prepared by and certified by an engineer; the Building Official may also require similar certification by an engineer if any unusual structural provision of a proposed sign indicates such certification is necessary in the interest of public safety.
- (3) Signatures of both the owner of the premises upon which the sign is to be (or has been) constructed (or the authorized lessee of such premises) and the sign company (if the sign is an off-premise sign) that the sign is authorized to be erected or to be thereafter maintained on the premises, shall be provided and shall contain the sworn affidavit of the owner or lessee and the sign company that the sign does not violate any applicable deed restriction or other similar restrictions on the premises.
- (4) Any permit for construction of a sign will become void unless construction of the sign is completed within 180 days, or the developer renews the permit for an additional 180 days, in which case an additional fee shall be payable equal to one-half the original fee paid and the proposed sign shall meet all of the requirements of this Code on the date of renewal.

206.3 Exceptions

This Code does not require a development permit for on-premise signs of the following descriptions, unless (any) the sign is a spectacular sign:

- (1) signs painted on glass surfaces or windows or doors;
- (2) wall signs not over 100 square feet in area;
- (3) signs erected by the City, State of Texas (including its political subdivisions such as counties, school districts, universities, and the Department of Criminal Justice), or the Federal Government;
- (4) railroad signs;
- (5) legal notices (such as "no trespassing" or "no parking") and house numbers not exceeding four square feet in area;
- (6) a sign not over 40 square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises;
- (7) signs within a stadium designed to be viewed by patrons within the stadium;
- (8) temporary signs, provided the number of such signs on any premise does not exceed two (2) in number, and provided such signs are displayed on consecutive days, and for only a maximum of seven (7) days in any thirty (30) day period;
- (9) on-premise signs setting forth the location of or directions to parking or buildings located on the premises, or regulating the flow of off-premise traffic. Such directional signs may be lighted, consistent with the other requirements for electrical signs in Chapter 11 and with the requirements of the building code;
- (10) signs displayed, designed, or used for or upon motor vehicles;
- (11) signs designed and used for display upon or with heavier than air craft; or
- (12) signs which are mounted on the face of a building no higher than the roof line or form an integral part of a canopy or marquee entrance and state only the street number, name of the proprietor, and name of the premise therein; provided, however, that the number of such signs shall not exceed the number of entrances for such premises.

See generally Tex.Loc.Gov't Code ch.216.

206.4 Application of sign standards in the City's extraterritorial jurisdiction

The provisions of this section shall apply in the City's extraterritorial jurisdiction only to the extent that the provisions relate to the placement of sign and the lot subdivision. Those provisions related to the structural requirements of signs shall not apply in the City's extraterritorial jurisdiction.

207. PERMIT TO CONSTRUCT PUBLIC IMPROVEMENTS

207.1 Permit required

- (1) A person commits an offense if the person constructs, alters or removes any public improvement in the City without a development permit for the work from the City Engineer.
- (2) No person should construct, alter or remove any public improvement in the City or its extraterritorial jurisdiction without a development permit for the work from the City Engineer.

207.2 Application procedures

- (1) The developer shall submit an application for the permit on standard forms provided by the City Engineer.
- (2) The developer shall include with the application three (3) complete sets of proposed construction plans. The plans and one (1) set of construction cost estimates shall bear the seal of an engineer, and shall conform to the latest City standards.

207.3 Permit issuance and fees

The City Engineer may issue a development permit for construction, alteration or removal of public improvements upon approval of the engineered plans and cost estimates (see Section 207.4) for the work and payment of a plan checking and inspection fee according to the duly adopted "Schedule of Fees."

See Appendix.

207.4 Construction plans

- (1) Utility layout plan

The developer shall submit at least three (3) copies of a plat of the development showing the proposed location of all utilities and their relation to all other utilities

as specified in Chapter 7 of this code. The Utility Layout Plan shall bear the signature of approval of the appropriate representative of each utility company proposed to serve the development.

(2) Sanitary sewer and water construction plans

The developer shall submit separate sewer system plans with a plan and profile of proposed sanitary sewers, with grades and pipe sizes indicated and showing locations of manholes, cleanouts, etc., and a separate plan of the proposed water distribution system showing pipe sizes and location of valves, fire hydrants, and fittings, etc., in conformance with the City's criteria. The plans for all water lines shall include profiles. Plans shall show existing public improvements (streets, sewer, water, etc.), public easements and existing and proposed topography. Each plan shall show the seal and signature of the engineer who prepared the plans. Each sheet shall include north arrow, scale, date, and bench mark description of sea level datum.

(3) Storm drainage construction plans

The developer shall submit separate storm drainage plans showing the information specified below.

- (a) A plan and profile of proposed storm sewers or channels, showing hydraulic data, pipe grades and sizes, manholes, inlets, pipe connections, outlet structures, etc., in conformance with the criteria established in Chapter 10 of this code. All plans shall show existing and proposed topography with contour lines at two foot intervals and all existing public improvements (streets, sewer, water, etc.) and public easements. Each plan shall show the seal and signature of the engineer who prepared the plans. Each sheet shall include north arrow, scale, date, and bench mark description to sea level datum.
- (b) A general location map of the tract showing the entire watershed (a USGS quadrangle is satisfactory).
- (c) Calculations showing the anticipated storm water flow, including watershed area, runoff coefficient and time of concentrations and showing basis for design of all improvements.
- (d) Detailed plans for any bridges, culverts, catch basins, any other drainage structures, or any other improvements proposed.

(4) Street construction plans

The developer shall submit separate street plans with a plan and profile of all proposed streets or roads with centerline and top of curb grades, ditch flowline and tops of ditch grades, and showing existing and proposed surface profiles. Each sheet shall include north arrow, scale, date, and bench mark description to sea level datum. Scales shall be one (1) inch equal forty (40) or fifty (50) feet horizontally and one (1) inch equal four (4), five (5), or ten (10) feet vertically. Each plan shall show all existing and proposed public improvements (drainage, sewer, water, etc.) within the limits of the street construction. The plans shall include typical cross-section of proposed streets showing the width of roadways and type of pavement and location and width of sidewalks. Each plan shall show the seal and signature of the engineer who prepared the plans.

(5) Grading plan

The developer shall submit a plan of the entire tract depicting the final grading contours and elevations, earthwork, quantities (cut and fill), slopes, retaining walls, drainage patterns, finished floor elevations of all existing structures, minimum floor elevations of all future structures and any other information considered necessary by the City at a scale of 1" = 100' minimum. (See also Sections 106 and 114). Each plan shall show the seal and signature of the engineer who prepared the plans.

(6) Design summary

The developer shall submit a separate report entitled "Engineering Design Summary" with final plans and specifications for construction of public improvements that summarizes calculations and other engineering information about the major items of design as may be necessary in the City Engineer's review of the plans and specifications to determine whether the facilities proposed for construction are designed according to the intent of the City's design criteria. Calculations shall include drainage facilities, water demand, sewage flows, and any others considered necessary by the City Engineer. The report shall show the seal and signature of the engineer who prepared the design.

(7) Format

- (a) The developer shall submit all improvement plans to the Planning Officer on sheets 36 inches by 24 inches with a binding margin of not less than one and one-half (1-1/2) inches on the left side of the sheet and margins not less than one-half (1/2) inch on the three other sides.
- (b) Upon approval by the City Engineer of the engineering plans and conditional approval of the final subdivision plat by the Commission, the

Planning Officer shall issue the developer a Permit to Construct Public Improvements.

- (c) Upon completion of the required public improvements, the developer's engineer shall present to the City Engineer high quality reproducible, drafting film (4 mils thick) of complete "as built" plans for all paving, drainage structure, storm drains, water lines and sewer lines. Within thirty (30) days of the completion, the developer's engineer shall certify that the "as built" plans are true representations of the actual construction.
- (d) The City shall not accept ownership or maintenance of any public improvements until the developer submits all final plats and "as built" plans relating to the project to the City Engineer.

See generally Tex.Loc.Gov't Code ch.211.

208. NONCONFORMING USE PERMITS IN THE CITY - ZONING

208.1 Permit required - zoning

Within the districts established in the City under this Code there may exist lots, structures, uses of land and land use characteristics that were lawful before City Council enacted, amended or otherwise made applicable this Code, but that do not conform to the regulations of the district in which it is located.

City Council declares nonconforming uses incompatible with the uses permitted by right and the conditional uses permitted within the district involved. A person shall apply for a permit to maintain, enlarge, change, alter or repair a nonconforming use of land or building. The Planning Officer shall issue a nonconforming use permit according to the procedures contained in Section 208.

208.2 Regulation of nonconforming uses - zoning

Except as herein provided, no nonconforming use of land or buildings nor any nonconforming structures may be enlarged, changed, altered or repaired except in conformity with the regulations contained in this Code.

(1) Nonconforming status

The lawful use of land existing at the time of the passage of this Code, although it does not conform to the provisions herein, may be continued until termination is required according to the provisions of this Code. Nonconforming status means:

- (a) The use or structure was in existence and lawfully operating as of June 10, 1986, and has since been in regular and continuous use; or

- (b) The use or structure was lawfully being used at the time of the adoption of any amendment to this Code and by such amendment was placed in a district in which it is not otherwise permitted; or
- (c) The use or structure was in existence at the time of annexation to the City and has since been in regular and continuous use.

(2) Continuing lawful use of property

A nonconforming use, when discontinued or abandoned, cannot be resumed. Discontinuance or abandonment means:

- (a) When land used for a legal nonconforming use ceases to be used in such a manner for two (2) years;
- (b) When a structure designed or used for a nonconforming use ceases to be used in such a manner over one (1) year.

(3) Substitution of nonconforming uses prohibited

No nonconforming use or structure may be substituted for any other nonconforming use or structure. Only uses permitted by right and approved conditional uses may be substituted for nonconforming uses or structures.

(4) Enlargement of nonconforming use:

Enlargement of nonconforming uses is prohibited.

(5) Restoration of damaged property

If a nonconforming use is damaged or destroyed to an extent of more than sixty per cent (60%) of its fair market value by a fire, explosion, act of God, or other means, then any restoration must be for a permitted use.

Tex.Loc.Gov't Code 216.013(c).

See generally Tex.Loc.Gov't Code Ch.211.

208.3 Termination of nonconforming use - zoning

The right to use a parcel of land or a structure in a nonconforming manner must terminate under any of the following circumstances:

- (1) when the use is abandoned;
- (2) when any provision of this Code or any other code is violated with respect to a nonconforming use;
- (3) when a nonconforming use is changed to a conforming use by means of an amendment to the zoning text or map;
- (4) when the structure in which a nonconforming use is housed, operated or maintained is damaged to the extent of more than sixty per cent (60%) of its value.

209. OTHER CODES AND STANDARDS AFFECTING DEVELOPMENT IN THE CITY

209.1 Building codes affecting development in the City

Nothing in this code shall relieve the developer of the additional responsibility of obtaining any other permits required by the City Council in enforcing its rules and regulations. The City Council has adopted the following documents related to building and construction (see Chapters 6, 7 and 8, Huntsville Code of Ordinances for the latest additions and amendments to these codes):

- (1) the Standard Building Code, Southern Building Code Congress International, Inc. (SBCC);
- (2) the Standard Housing Code, (SBCC);
- (3) the Standard Excavation and Grading Code, (SBCC);
- (4) the Standard Swimming Pool Code, (SBCC);
- (5) the Standard Mechanical Code, (SBCC);
- (6) the Standard Gas Code, (SBCC);
- (7) the Standard Plumbing Code, (SBCC);
- (8) the National Electrical Code, National Fire Protection Association, (NFPA); and
- (9) the Standard Fire Prevention Code, (SBCC)

209.2 Public improvement standards

The developer shall construct all public improvements according to this code and the following manuals and specifications:

- (1) CONSTRUCTION SPECIFICATIONS FOR PUBLIC IMPROVEMENTS City of Huntsville, Texas, 1982;
- (2) STANDARD DRAWINGS FOR PUBLIC IMPROVEMENTS City of Huntsville, Texas, 1982.

210. MINOR PLATS: APPLICATION AND APPROVAL PROCESS

210.1 A development in the City or its extraterritorial jurisdiction involving four or fewer lots fronting on an existing street and not requiring the creation of any new street, alley, square or park may be approved through the minor plat process by the Planning Officer.

Tex.Loc.Gov't Code § 212.0065; see also Section 104.

- (1) The owners shall submit to the Planning Officer a minor plat application on a form provided by the Planning Officer for approval of the proposed minor plat.
- (2) The developer shall include with each application the fee payment according to the duly adopted "Schedule of Fees" to cover the costs of processing the application.

See Appendix.

210.2 Form

The application shall show, in addition to the information required for a site plan by Section 203:

- (1) the proposed minor plat at a recognized engineering scale on paper at least 8-1/2" by 14" or 18" by 24";
- (2) boundary lines with dimensions and bearings of the tract proposed to be subdivided (in fine dashed lines);
- (3) the layout of all lots (in heavy solid lines);
- (4) the size of each lot;
- (5) existing easements, streets and utilities on or next to the property showing type, location, filing data and size; and
- (6) an indication of the type of monumentation existing and proposed at all property corners.

210.3 Action of the Planning Officer

Within ten (10) working days of receipt of the minor plat by the Planning Officer, the Planning Officer shall either approve the minor plat or submit it to the Commission with a recommendation to either approve or disapprove the minor plat.

211. MAJOR PLATS: SUBDIVISION REVIEW AND APPROVAL PROCESS

The developer shall submit plats and related documents in the order as specified below in obtaining approval of a subdivision of land not subject to the minor plat process. The Commission shall approve all preliminary plats, variance requests and final plats for developments in the City or its extraterritorial jurisdiction involving more than four lots, the creation of any new street, or the extension of municipal facilities.

211.1 Preliminary plat

(1) Application; fees

- (a) The developer shall submit an application on forms provided by the Planning Officer for approval of a preliminary plat.
- (b) The developer shall include with each application the fee payment according to the adopted "Schedule of Fees" to cover the costs of processing the application.

See Appendix.

- (c) The developer shall submit ten (10) copies of the preliminary plat for review by the Commission. Where the developer requests hardship relief, the developer shall submit a petition for a variance in writing for review by the Commission (see Section 104, Hardship Relief).
- (d) Within three (3) days of the filing of an application for approval of a preliminary plat, the developer shall cause to be placed on said land a sign or signs indicating the type of development proposed and the day and time of the Commission review. The signs shall be placed at not more than three hundred (300) foot intervals across the property line fronting on existing streets and must be clearly visible from the street. Each sign shall be no greater than ten (10) feet from the property line and shall be no smaller than eighteen (18) inches by twenty-four (24) inches.

(2) Form

- (a) The preliminary plat serves as a master development plan and shall cover the entire tract proposed for immediate or future development. The developer shall prepare the plan on sheets no greater than 24 inches by 36 inches.

- (b) The preliminary plat shall provide the following:
- 1) proposed name of development;
 - 2) a description of the proposed development;
 - 3) boundary lines with approximate dimensions and bearings of the development;
 - 4) the location and width of all existing public streets and rights-of-way next to or within the development;
 - 5) existing easements on or next to the property showing locations, width and purpose;
 - 6) location and size of all existing water, sanitary sewer and drainage facilities;
 - 7) the location of proposed streets designated according to design standards (see Chapter 6);
 - 8) total acreage, designated land uses and densities;
 - 9) estimated traffic impact of the development;
 - 10) proposed layout and capacities of public utilities;
 - 11) topographic features based on City aerial mapping (two (2) foot contours or, if unavailable, U.S.G.S. survey maps);
 - 12) existing watercourses, flood plains and storm drainage, and the areas subject to flooding based on the regulatory flood plain maps (see Section 205 (1));
 - 13) sequence of phased development (if applicable) and a tentative timetable for development;
 - 14) adjacent property owners and adjacent platted areas (referenced by deed on plat);
 - 15) date of preparation, scale of plat and north arrow for all maps;
 - 16) vicinity sketch or key map at a smaller scale;
 - 17) the name and address of the owner or owners of the land to be subdivided and the name and the address of the developer, if different

from the owner;

18) park area, if required; and

19) existing structures if any.

(3) Action of the Commission

(a) Within thirty (30) days of receipt of the preliminary plat by the Planning Officer, the Commission shall either approve, conditionally approve with modifications, or disapprove the plat.

(b) Upon approval, the preliminary plat becomes the guide for submittal of final plats until otherwise amended by the Commission.

(c) If the Commission disapproves or conditionally approves with modifications the preliminary plat, the developer may resubmit it to the Commission through the Planning Officer for consideration without fee.

Tex.Loc.Gov't Code § 212.009.

(4) Upon approval of the preliminary plat, the developer shall submit one reproducible copy of the plat to the City.

211.2 Final plat

(1) Application and approval process

(a) The developer shall submit an application, on forms provided by the Planning Officer, for approval of a final plat of the proposed development to the Commission.

(b) The plat may be presented for approval when the preliminary plat is presented.

(c) The developer shall submit ten (10) copies of the plat.

(2) Form

(a) The final plat and application shall be in substantial compliance with the approved preliminary plat.

(b) The final plat shall show:

1) name of the subdivision;

- 2) the name and address of the owner or owners of the land to be divided, the name and address of the developer and the name and address of the engineer and/or surveyor;
- 3) the date of preparation of the plat; north arrow and scale;
- 4) key or location map showing location of the subdivision;
- 5) the entire subdivision, or section of it, proposed for immediate development at one of the following scales: 1" = 10'; 1" = 50'; 1" = 100'; 1" = 200'; 1" = 400';
- 6) an accurate legal description of the property;
- 7) the total acres and total number of lots of the subdivision;
- 8) the names of all adjacent subdivisions and the names, locations, and widths of all existing and proposed streets, easements, drainage ways, and other public ways, within or next to the property;
- 9) the boundary of the subdivided area, block boundary, street, and of the right-of-way lines with distances, angles, and/or bearings, and where these lines follow a curve, geometric data;
- 10) the accurate dimensions of all property to be offered for dedication for public use, and all property reserved for the common use of the property owners within the subdivision, with the purposes indicated; all setbacks or building lines shall be dimensioned and/or referenced from the property lines established by the plat;
- 11) the dimensions of all lots and lot lines, and the bearings of those lot lines along with setbacks and/or other building lines;
- 12) all easements denoted by fine dashed lines, clearly identified, and if already on record, the recorded reference of such easements; the width of the easement with sufficient ties to locate it definitely with respect to the subdivision;
- 13) any easements located outside the boundaries of the plat, required for plat approval;
- 14) all blocks consecutively numbered, and all lots within each block consecutively numbered;
- 15) a certificate of ownership and dedication;

- 16) a certificate by a surveyor that all details of the plat are correct;
- 17) spaces for certifications by the Planning Officer, City Engineer, Chairperson of the Commission and County Clerk;
- 18) all approved variances to the plat and the date of the Commission meeting at which the variances were approved;
- 19) any other information as may be necessary for the full and proper consideration of the proposed subdivision;

Tex.Loc.Gov't Code §§ 212.004, .045; Tex.Prop.Code § 12.002.

(3) Action

- (a) Within thirty (30) days of receipt of the final plat by the Planning Officer, the Commission shall either approve, conditionally approve, or disapprove the plat.
- (b) The Commission shall conditionally approve a final plat if it substantially conforms to the approved preliminary plat. Conditional approval of a final plat shall be deemed approval of the plat subject to:
 - 1) the developer's construction and the City Engineer's acceptance of required public improvements; or
 - 2) the developer giving assurances approved by the City Attorney that guarantee construction of the required improvements. The value of such assurances shall be based on an estimate of the cost to construct all public improvements, as determined by the developer's engineer and approved by the City Engineer. Assurances shall take the form of performance and payment bonds, cash deposits, certificates of deposit in the name of the City, irrevocable letters of credit, or other forms approved by the City Attorney.

Tex.Loc.Gov't Code §§ 212.010(a)(3), .0106, and .901.

- (c) Upon approval of the final plat, the developer shall submit at least two reproducible mylar copies of the approved plat to the City Engineer. The City Engineer shall retain one mylar copy of the plat as a permanent record and one copy shall be presented to the County Clerk. All mylar copies shall bear original signatures.

- (d) The Planning Officer shall record a copy of the approved final plat at the office of the County Clerk when:
 - 1) the developer constructs all the required improvements and the City Engineer approves such improvements; or
 - 2) the developer files assurances approved by the City Attorney that guarantee construction of the required improvements.
- (e) If the Commission disapproves or approves with conditions a final plat, the developer may resubmit it to the Commission for reconsideration without fee.
- (f) Where a final plat has not been filed for record and the developer has not completed or substantially completed any required public improvements within twelve (12) months of the approval or conditional approval of the subdivision plat, the Commission shall review the final plat to determine the developer's intent to proceed. For good cause, the Commission may extend for additional one (1) year periods the approval of the final plat. If the Commission finds that the developer does not intend to proceed with the development, the Commission shall withdraw approval of the final plat.

212. FORMAT OF PLATS

(1) Certification and dedication

Forms for certification and dedication shall be placed on the final plat of all subdivisions, as appropriate, as shown in the examples at the end of this chapter.

(2) Format

- (a) The developer shall submit the final plat on sheets 18 inches by 24 inches with a binding margin of not less than one and one-half (1-1/2) inches on the left side of the sheet and margins not less than one-half (1/2) inch on the other three sides.
- (b) If the size of the subdivision is such that the full area cannot be covered on a single sheet with space for titles and other required identification, the developer shall draw the final plat on a number of separate sheets with matching lines to facilitate joining the sheets together as a continuous composite plat. If more than one sheet is necessary to accommodate the entire tract proposed for subdivision, the developer shall furnish an index map showing the entire subdivision; the developer shall show each portion of the subdivision on the index map. If more than one sheet is so used, the developer shall submit photographic reductions of the various sheets reduced in scale and joined to form a single total composite of the plat on a

sheet of high quality drafting film 18 inches by 24 inches.

213. PLAT AMENDMENTS; REPLATS; AND VACATING PLATS OF PROPERTY IN THE CITY OR ITS EXTRATERRITORIAL JURISDICTION

- (1) Besides the other requirements of this Code, any amending plat shall comply with the requirements of state law, including Texas Local Government Code Chapter 212.
- (2) If a proposed replat requires a variance and is protested according to Texas Local Government Code Section 212.015(c), then the proposed replat must receive, to be approved, the affirmative vote of at least three-fourths (3/4) of the members of the Commission present.

See especially Tex.Loc.Gov't Code §§ 212.005, 212.015.

214. PLATS NOT REQUIRING RECORDATION IN THE COUNTY PLAT RECORDS.

A plat is not required to be filed in the plat records of Walker County Clerk if:

- (1) the plat or a written notice of lot consolidation is otherwise properly filed in the permanent deed or public records of the County Clerk; and
- (2) the plat is an amending plat, including a lot consolidation under Section 212.016(9) of the Texas Local Government Code, and the City's Planning Officer finds that no public easement is affected by the amending plat.

See also Tex.Loc.Gov't Code §§ 212.0045; 232.010.

215. DEED RESTRICTIONS, COVENANTS, MAINTENANCE AGREEMENTS

The developer shall provide the City Planning Officer a copy of all deed restrictions, declarations, covenants, maintenance agreements and any other requirements placed upon the lot or lots in the City or its extraterritorial jurisdiction. The developer shall file those instruments with the Walker County Clerk. The subdivision plat shall reflect the volume and page deed reference of those instruments.

216. UNAUTHORIZED DEVELOPMENT OR DIVISIONS OF LAND PROHIBITED; PENALTIES AND ENFORCEMENT

216.1 Offenses

- (1) A person commits an offense if the person intentionally or knowingly sells property within the City that has not been divided as required by this Code.

- (2) A person commits an offense if the person intentionally or knowingly constructs or enlarges the exterior dimensions of any building, structure or improvement in the City without the appropriate City development permit.
- (3) A person commits an offense if the person intentionally or knowingly subdivides property in the City without a City development permit.
- (4) A person commits an offense if the person intentionally or knowingly uses land in the City for a purpose not permitted in the district in which the property is located.
- (5) A person commits an offense if the person intentionally or knowingly adjusts a lot or tract boundary, or consolidates two or more lots or tracts of land in the City without a development permit from the Planning Officer.
- (6) A person commits an offense if the person intentionally or knowingly files a plat or map with the County Clerk of a division of land in the City that has not been authorized by the Planning Officer or the Commission.
- (7) A person commits an offense if the person intentionally or knowingly fails to timely provide for the construction or installation of a public improvement that the person described on a plat or on a document attached to a plat.

See Tex.Loc.Gov't Code § 212.0175

- (8) Any offense under this Code shall be punishable by a fine of \$1 to \$1,000 per day.

216.2 Filing of certain maps and plats prohibited

No person shall file or record with the County Clerk a map or plat of any division of land within the City or its extraterritorial jurisdiction until authorized by the Planning Officer or the Commission.

Tex.Loc.Gov't Code §§ 212.005 and .010; Tex.Prop.Code § 12.002.

216.3 Withholding of City services to certain properties

The City shall not maintain streets, furnish water or sewer service, assign street numbers, or issue building permits for construction of any building for any property in any subdivision, development or in any lot or tract of land in the City or its extraterritorial jurisdiction not approved according to this Code.

Tex.Loc.Gov't Code § 212.012; 212.046.

216.4 When plat not required

- (1) The provisions of this chapter shall not apply to any subdivision, recorded or unrecorded, that was in existence before March 1, 1982 nor to any lot of such subdivision, the last recorded conveyance of which was before March 1, 1982. Such a subdivision must, however, have been platted and the City or the County must have accepted the ownership and maintenance of any streets shown thereon, or the City or the County Commissioner's Court must have approved the plat prior to the passage of this Code.

Tex.Loc.Gov't Code § 212.0045.

- (2) The provisions of this chapter shall not apply to the laying out of cemetery lots to an addition of the Oakwood Cemetery if no public street is constructed or dedicated.

216.5 Other enforcement action authorized

In addition to the other provisions of this Code, City Council may request the City Attorney to file a Court action to:

- (1) enjoin the violation or threatened violation by the owner of a tract of land of a requirement of this Code;
- (2) recover damages from the owner of a tract of land in an amount adequate for the City to undertake construction or other activity necessary to bring compliance with this Code; and
- (3) recover civil penalties of \$500 to \$1,000 plus court costs and attorneys fees.

Tex.Loc.Gov't Code §§ 212.0175, .018 and .050.

EXAMPLE 2-1
OWNER(S) ACKNOWLEDGMENT AND DEDICATION

STATE OF TEXAS,
COUNTY OF _____.

I (We), the undersigned, owner(s) of the land shown on this plat, and designated as the _____ subdivision in (the City of Huntsville) Walker County, Texas, and whose name is subscribed hereto, do hereby dedicate to the use of the public forever all streets, parks, water courses, drains, easements and public places shown thereon for the purpose and consideration therein expressed.

(Signature)
Name to be Printed

(Addition to above when private streets or emergency access easements are provided.)

FURTHER, I (or we) do hereby covenant and agree that those private streets or emergency access easements located within the boundaries of this plat shall be hereby established and maintained by the owners, their heirs, and assigns to the property located within the boundaries of this plat and to the public for firefighters, firefighting equipment, police and other emergency vehicles of whatever nature and for access to the public utility system contained herein.

(All signatures shall be acknowledged by a Notary Public.)

EXAMPLE 2-2
**LIENHOLDER ACKNOWLEDGMENT AND SUBORDINATION
STATEMENT**

(Holders of all liens against the property being platted must be made a part of the first plat or prepared as a separate instrument which shall be filed for record with the plat). I (or we), (Name of mortgagee or names of mortgagees), owner(s) and holder(s) of a lien(s) against the property described in the plat known as _____, said lien(s) being evidenced by instrument of record in Volume____, page____, of the Official Records of Walker County, Texas, do hereby in all things subordinate to said plat said lien(s), and I (we) hereby confirm that I am (we are) the present owner(s) of said lien(s) and have not assigned the same nor any part thereof.

BY: (Signature of Lienholder)
(Name to be Printed)

(All signatures shall be acknowledged by a Notary Public.)

EXAMPLE 2-3
CERTIFICATION BY THE ENGINEER

STATE OF TEXAS,
COUNTY OF WALKER.

I, _____, Registered Professional Engineer No. _____ in the State of Texas, hereby certify that proper engineering consideration has been given this plat regarding design, construction and layout of public improvements.

(engineer's seal)

Registered Professional Engineer

EXAMPLE 2-4
CERTIFICATION BY THE SURVEYOR

STATE OF TEXAS,
COUNTY OF WALKER.

I, _____, Registered Professional Land Surveyor No. _____ in the State of Texas, hereby, certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision on the ground.

(surveyor's seal)

Registered Professional Land Surveyor

EXAMPLE 2-5
CERTIFICATION BY THE CITY PLANNING OFFICER

I, the undersigned, Planning Officer of the City of Huntsville, Texas, certify that the plat conforms to the City Comprehensive Plan, and all applicable design criteria and standards of the City of Huntsville, Texas.

Dated this ____ day of _____, _____.

City of Huntsville Planning Officer

EXAMPLE 2-6
CERTIFICATION BY THE CITY ENGINEER

STATE OF TEXAS,
COUNTY OF WALKER.

I, the undersigned, City Engineer of Huntsville, Texas, hereby certify that proper engineering consideration has been given to this plat regarding the design and construction of public improvements and related easements and rights-of-way.

Dated this_____day of_____, _____.

(City's engineer's seal)

City of Huntsville City Engineer

EXAMPLE 2-7
APPROVAL OF THE PLANNING AND ZONING COMMISSION

This plat has been submitted to and considered by the Planning and Zoning Commission of the City of Huntsville, Texas, with respect to the platting of the land and is hereby approved by the Commission.

Dated this_____day of_____, _____.

Chairperson of the Commission

EXAMPLE 2-8
CERTIFICATION BY THE COUNTY CLERK

STATE OF TEXAS,
COUNTY OF WALKER.

I, _____, County Clerk in and for Walker County, do hereby certify that this plat with its certificates of authentication was filed for record in my office the _____ day of _____, _____, in the Plat Records of Walker County in Volume _____, Page _____.

(seal)

County Clerk, Walker County, Texas

EXAMPLE 2-9
NOTARY PUBLIC ACKNOWLEDGMENT

STATE OF TEXAS,
COUNTY OF _____.

Before me _____ on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, _____.

(seal)

Notary Public, State of Texas